



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNDC

Introduction

This hearing was convened by way of a conference call in response to an application made by the tenant for the return of all the security deposit and for money owed or compensation for damage or loss under the *Residential Tenancy Act* (referred to as the “Act”), namely the return of double the amount of the tenant’s security deposit.

The tenant appeared for the hearing but provided no documentary evidence in advance of the hearing. The tenant provided affirmed testimony that he had served the Notice of Hearing documents to the landlord on the same day he had received them by leaving them with an agent of the landlord. Based on the affirmed testimony of the tenant, I find that the he served the hearing documents to the landlord in accordance with section 89(1) (b) of the Act.

The landlord failed to appear for the hearing despite being served with notice of this hearing in accordance with the Act and did not provide any evidence prior to this hearing taking place.

Analysis & Conclusion

The tenant testified that he had given the landlord a forwarding address by writing it on a letter and serving it to the landlord personally on October 5, 2013 and that he had also placed a copy of the same letter in the landlord’s mail box. However, the tenant failed to provide a copy of the letter as he no longer had a copy and was unable to provide any supporting evidence that the forwarding address was served to the landlord.

Section 38(1) of the Act states that, within 15 days of the landlord receiving the tenant’s forwarding address in writing after the tenancy ends, the landlord must repay the security deposit or make an application to claim against it.

When a tenant makes an application for the return of a security deposit, they bear the burden of proof in establishing that the Act has been complied with in providing the landlord with a forwarding address before the landlord's obligation to deal with it under the Act is released.

In this case, I find that the tenant has not provided sufficient evidence to satisfy me that the landlord has been provided with a forwarding address as required by the Act. Therefore, I find that the tenant's application is premature.

The tenant stated that in addition, he had provided his forwarding address to the landlord on his Tenant's Application for dispute resolution. The tenant also confirmed the address of the landlord on the application.

As a result, I hereby put the landlord on notice that he will be deemed to have received this decision 5 days after the date it was written and will have 15 days from that date of receipt (by February 23, 2014) to deal with the tenant's security deposit pursuant to Section 38 of the Act. If the landlord fails to deal with the tenant's security deposit in accordance with the Act, the tenant is at liberty to make a new application for dispute resolution for its return.

For the reasons set out above, I dismiss the tenant's application **with** leave to re-apply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: February 03, 2014

Residential Tenancy Branch

